



RECD PER 03 MAY 2006

03 MAY 2006

10/537672

Dkt. 05069

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Group Art Unit:

PAUL WILLIAM BELL et al

Examiner:

Serial No.: 10/537,672

Filed: June 6, 2005

For: METHOD AND APPARATUS FOR DISPENSING OF PARTICULATE MATERIAL

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS
UNDER 35 USC 371 AND PETITION UNDER 37 CFR 1.47

Honorable Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

05/08/2006 LLANDGRA
00000059 10537672

02 FC:1463

Sir:

200.00 OP

A Notification of Missing Requirements under 35 USC 371 (copy attached) was issued in this application on October 3, 2005, requiring an oath or declaration of the inventors, Paul William Bell and Geoffrey Van Zwol.

Applicant petitions under 37 CFR 1.47 to permit T.A.C.A. International Pty Ltd to make this application for patent on behalf of and as agent for the inventors.

Inventor Geoffrey Van Zwol is known to be deceased. After diligent effort, the Australian attorney responsible for this application, Frank Di Giantomasso, has been unable to locate a legal representative for the deceased inventor, and has equally been unable to locate a next of kin.

The Australian attorney responsible for this application has been able to locate inventor Paul William Bell. Mr. Bell verbally communicated to Mr. Di Giantomasso that he would

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28 JUN 2006

Legal Staff
International Division

refuse to sign any documents in connection with this patent application.

A declaration of Frank Di Giantomasso is attached hereto, explaining his attempt to obtain a signature from Mr. Bell and his attempt to locate a legal representative for Mr. Van Zwol.

In the attached declaration, Mr. Di Giantomasso also explains how T.A.C.A. International Pty Ltd acquired rights to the application from the entity that filed the PCT International application, T.A.C.A. Australia Pty Ltd. It is believed that the invention described and claimed in this application was made in the course of the inventors' employment by T.A.C.A. Australia Pty Ltd.

An inventors' declaration is attached, signed by Eric Kenneth Karslake, a director of T.A.C.A. International Pty Ltd, on behalf of the non-signing inventors.

This petition is accompanied by a Petition for Extension of Time for five months. The fee for this petition under 37 CFR 1.17(g) and the extension of time fee are submitted by credit card (Form PTO-2038).

Respectfully submitted,



Ira J. Schultz
Registration No. 28666

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

PAUL WILLIAM BELL et al

Group Art Unit:

Serial No.: 10/537,672

Examiner:

Filed: June 6, 2005

For: METHOD AND APPARATUS FOR DISPENSING
OF PARTICULATE MATTER

DECLARATION OF FRANK DI GIANTOMASSO

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

I, Frank Di Giantomasso do hereby declare as follows:

I am a registered Australian patent attorney and principal of the firm Knightsbridge Patent Attorneys, based in Melbourne in the State of Victoria, Australia.

I did not file, but have since filing, assumed responsibility for prosecuting PCT Patent Application PCT/AU2003/001610, filed December 2, 2003, in the name of T.A.C.A. International Pty Ltd, and naming Paul Bell and Geoffrey Van Zwol as inventors, and for the various national and regional phase patent applications filed by T.A.C.A. International Pty Ltd. United States Patent Application Serial No. 10/537,672 ("this application") is one of the national phase applications that I am responsible for prosecuting on behalf of T.A.C.A. International Pty Ltd.

I have been informed by the management of T.A.C.A. International Pty Ltd and I believe that the inventors Paul Bell and Geoffrey Van Zwol were previously employed by another Australian company, called "T.A.C.A. Australia Pty. Ltd". I have been also been informed by the management of T.A.C.A. International Pty Ltd and I believe that the inventors Paul Bell and Geoffrey Van Zwol invented the subject matter of this application in the course of their employment with that company.

T.A.C.A. Australia Pty Ltd conducted business as a franchisor under a franchising system that was in substantial financial difficulty. An external party called Corporate Debt Solutions Pty Ltd assumed management responsibility over T.A.C.A. Australia Pty Ltd under an insolvency deed of arrangement.

As a part of reconstructing the financial position of T.A.C.A. Australia Pty Ltd, Corporate Debt Solutions negotiated with T.A.C.A. Australia Pty Ltd that a new intellectual property holding company by the name of T.A.C.A. International Pty Ltd would be established in order to sequester and protect the intellectual property from insolvency attack by creditors of T.A.C.A. Australia Pty Ltd, and that as part of the reconstruction arrangements, T.A.C.A. Australia Pty Ltd would assign its intellectual property rights to that company. The directors of Corporate Debt Solutions Pty Ltd also own and control T.A.C.A. International Pty Ltd, which filed the PCT patent application.

This assignment was effected by a letter dated November 16, 2003 (attached), signed by the then directors of T.A.C.A. Australia Pty Ltd. The PCT application was filed several weeks after the date of that letter.

The previous attorney who filed the PCT application filed a declaration (attached) concerning T.A.C.A. International Pty Ltd's entitlement to be granted a

patent for the invention, with the Australian Patent Office as the receiving office under the PCT.

I have been informed by the management of T.A.C.A. International Pty Ltd, and I believe, that since the filing of the PCT Application, the inventor Geoffrey Van Zwol has passed away. I have made a diligent effort to locate his legal personal representative, conducting a search of the on-line records of the Probate Office in the State of Victoria in Australia, and I have reviewed a number of on-line telephone directories for telephone numbers in the State of Victoria in an attempt to locate such a person. I have possibly located an address in rural Victoria where Mr. Van Zwol's widow may reside, but we cannot confirm if she actually resides there or whether she is the legal personal representative for her late husband. Despite our enquiries, we have not been able to confirm any telephone directory listing for Mrs. Van Zwol.

I was however, able to locate the second inventor, Paul Bell, and contacted him by telephone on the afternoon of April 27, 2006. Mr. Bell told me categorically that despite the fact that he invented the subject matter of this application in his capacity as an employee of T.A.C.A. Australia Pty Ltd, he would refuse to sign any documents that would assist T.A.C.A. International Pty Ltd. In my discussion with him, he also made it clear that he harbors considerable ill feelings towards one of the directors of Corporate Debt Solutions (a Mr Kenneth Karslake, who is also a director of T.A.C.A. International Pty Ltd, and who in addition, was for some time, a director of T.A.C.A. Australia Pty Ltd). He further told me that he and several former franchisees of T.A.C.A. Australia Pty Ltd have retained a patent attorney in Melbourne to watch the T.A.C.A. International patent application for this invention. He stated that if it or its national or regional phase counterparts were allowed, he and the former T.A.C.A. Australia Pty Ltd franchisees will bring legal proceedings in

an attempt to prevent T.A.C.A. International Pty Ltd from obtaining the patent rights it seeks.

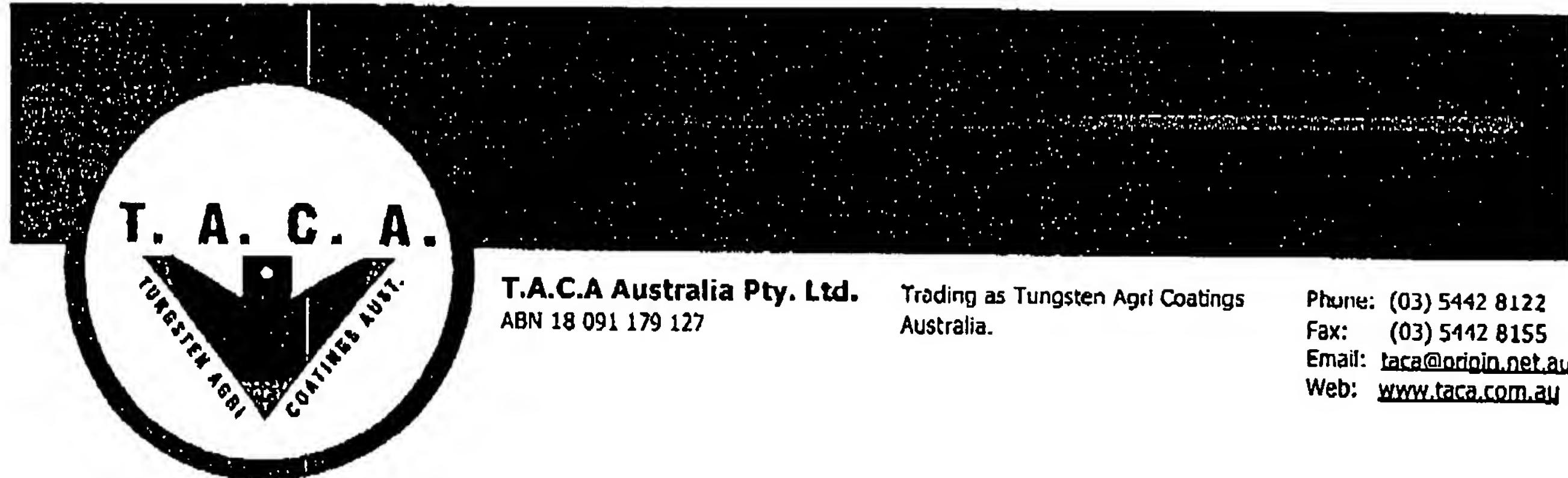
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, or any patent issued thereon.

2 May 2006

Frank Di Giantomasso

Date

Frank Di Giantomasso



T.A.C.A Australia Pty. Ltd.
ABN 18 091 179 127

Trading as Tungsten Agri Coatings
Australia.

Phone: (03) 5442 8122
Fax: (03) 5442 8155
Email: taca@origin.net.au
Web: www.taca.com.au

16th November, 2003

Corporate Mediation Solutions Pty Ltd
P O Box 1007
CAMBERWELL, VIC 3124

Dear Sirs,

RE: REGISTRATION OF TACA INTERNATIONAL PTY LTD

In relation to the ongoing restructure of Taca Australia Pty Ltd, we being two of the directors, in order to protect the Intellectual Property of the Company during the phase of reconstruction, hereby authorize your firm to make arrangements to set up a company called Taca International Pty Ltd.

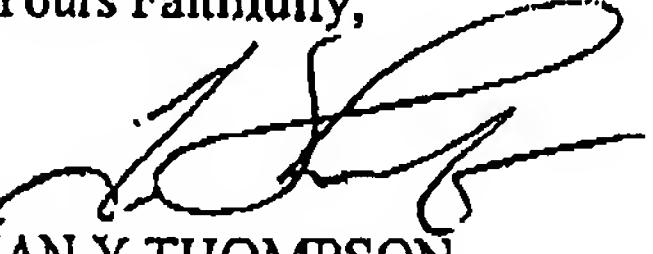
Once this company has been established and provided the name is available, the new patents that require registration will be registered under this new company name.

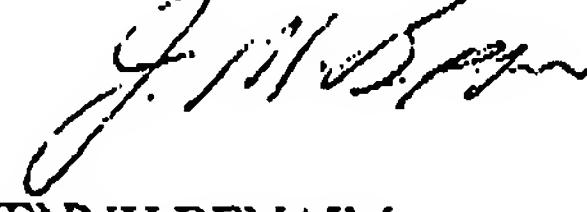
This has been done in good faith whilst changes and uncertainty with Taca Australia Pty Ltd exists. It is possible that if Taca Australia Pty Ltd does not continue as a business, then the Intellectual Property is protected and can still be utilized for the benefit of all the franchises and avoid being sold to the highest bidder, if this situation arose.

Once the uncertainties have settled, the Intellectual Property situation will be reviewed.

Please attend to as soon as possible.

Yours Faithfully,


IAN Y THOMPSON
DIRECTOR


JENNY BENAIM
DIRECTOR

James Murray
Patent and Trade Marks Attorney

30 Helena Court
Rye Vic 3941
Australia
Email: murraypt.1@optusnet.com.au

Phone: (03) 5985 4865
Fax: (03) 5985 3923
Int.Phone: 61 3 5985 4865
Int.Fax: 61 3 5985 3923

5 October, 2004

The International Bureau of WIPO
34 chemin des Colombettes
1211 Geneva 20,
SWITZERLAND

Dear Sir/Madam,

International Patent Application No. PCT/AU2003/001610
T.A.C.A. INTERNATIONAL PTY LTD Ref. JM : PAT : 8

I file herewith two corrected declarations made under PCT Rules 4.17 and 26ter.2 (a).

Yours faithfully,

JAMES MURRAY

Sheet No.

Box No. VIII (ii) DECLARATION: ENTITLEMENT TO APPLY FOR AND BE GRANTED A PATENT

This declaration must conform to the standardized wording provided for in Section 212; see Notes to Boxes Nos. VIII, VIII(i) to (v) (in general) and the specific Notes to Box No. VIII (ii). If this Box is not used, this sheet should not be included in the request.

Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate.

In relation to this international application No. PCT/AU2003/001610,

T.A.C.A. INTERNATIONAL PTY LTD is entitled to apply for and be granted a patent by virtue of the following:

- (i) PAUL WILLIAM BELL of 42 Booth Street, Golden Square, Victoria 3555, Australia and GEOFFREY VAN ZWOL of 6 Leopold Rise, Golden Square, Victoria 3555, Australia are the inventors of the subject matter for which protection is sought by way of this international application.
and
- (ii) T.A.C.A. INTERNATIONAL PTY LTD was entitled as employer of the inventors PAUL WILLIAM BELL and GEOFFREY VAN ZWOL.
- (ix) This declaration is made for the purposes of all designations except the designation of the United States of America.

Sheet No.

Box No. VIII (iii) DECLARATION: ENTITLEMENT TO CLAIM PRIORITY

This declaration must conform to the standardized wording provided for in Section 213; see Notes to Boxes Nos. VIII, VIII(i) to (v) (in general) and the specific Notes to Box No. VIII (iii). If this Box is not used, this sheet should not be included in the request.

Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)):

In relation to this international application No. PCT/AU2003/001610,
T.A.C.A. INTERNATIONAL PTY LTD is entitled to claim priority of earlier applications:
No. 2002953139 and 2003905790 by virtue of the following:

- (i) T.A.C.A. INTERNATIONAL PTY LTD was entitled as employer of the inventors PAUL WILLIAM BELL and GEOFFREY VAN ZWOL.
- (ix) This declaration is made for the purposes of all designations.



AP3 Rec'd PCT 03 MAY 2006

10/537672

Dkt. 05069

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:

PCT

PAUL WILLIAM BELL et al

Serial No.: 10/537,672

Filed June 6, 2005

Title: METHOD AND APPARATUS FOR DISPENSING
OF PARTICULATE MATERIAL

PETITION UNDER 37 CFR § 1.136

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Petition is herein made under the provisions of 37 CFR 1.136 for an extension of time for five months for response to the Notification of Missing Requirements mailed October 3, 2005.

The appropriate fee set forth in 37 CFR 1.17 is paid herewith by credit card (Form PTO-2038). Any fees not accepted by the credit card amount shown on the Form PTO-2038 may be charged to Deposit Account 04-0753.

Respectfully submitted,

Ira J. Schultz
Registration No. 28666

1080.00 OP

703-837-9600

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/537,672	Paul William Bell	05069
INTERNATIONAL APPLICATION NO.		
PCT/AU03/01610		
I.A. FILING DATE		PRIORITY DATE
12/02/2003		12/04/2002
CONFIRMATION NO. 5155		
371 FORMALITIES LETTER		
 OC000000017149635		

Date Mailed: 10/03/2005

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 06/06/2005
- Copy of the International Search Report filed on 06/06/2005
- Preliminary Amendments filed on 06/06/2005
- U.S. Basic National Fees filed on 06/06/2005
- Priority Documents filed on 06/06/2005
- Specification filed on 06/06/2005
- Claims filed on 06/06/2005
- Drawings filed on 06/06/2005

- MISSING SEQ DUE:
 12-3-05

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

DOCKETED

*A copy of this notice **MUST** be returned with the response.*

KAYA L LEWIS BALTIMORE

Telephone: (703) 308-9140 EXT 202

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/537,672	PCT/AU03/01610	05069

FORM PCT/DO/EO/905 (371 Formalities Notice)

Attorney Docket Number: 05069

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION

As a below named Inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which patent is sought on the invention entitled:

METHOD AND APPARATUS FOR DISPENSING OF PARTICULATE MATERIAL

the specification of which

is attached hereto OR was filed on December 2, 2003 as United States Application Number or PCT International Application Number PCT/AU2003/001610 and was amended on (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application No.	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Claimed Yes	Priority Claimed No	Certified Copy Attached Yes	Certified Copy Attached No
2002953159	AU	12/04/2002	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2003905790	AU	10/22/2003	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. or PCT Parent Application No.	Parent Filing Date (MM/DD/YYYY)	Parent Patent No. (if applicable)

As a named inventor, I hereby appoint the registered practitioner(s) associated with customer number 23338 to prosecute this application.

Customer No.

23338

US PATENT AND TRADEMARK OFFICE

Direct all correspondence to:
DENNISON, SCHULTZ & MACDONALD
1727 King Street, Suite 105
Alexandria, VA 22314-2700

Direct telephone calls to:
Ira J. Schultz
(703) 837-9600, Ext. 23
Facsimile: (703) 837-0980

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

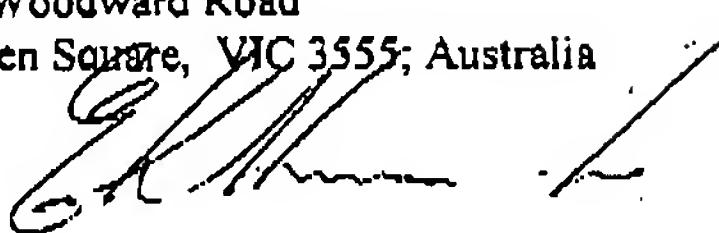
Name of Sole or First Inventor: Paul William Bell

Inventor's Signature: _____ Date: _____
Residence: Golden Square, VIC, Australia
Post Office Address: 42 Booth Street, Golden Square, VIC 3555, Australia Citizenship: Australia

Name of Second Inventor: Geoffrey VAN ZWOL (deceased)

Inventor's Signature: _____ Date: _____
Residence: Golden Square, VIC, Australia
Post Office Address: 6 Leopold Street, Golden Square, VIC 3555, Australia Citizenship: Australia

T.A.C.A. International Pty Ltd
176 Woodward Road
Golden Square, VIC 3555; Australia

By: 

ERIC KONIECKO, MR SPLICE, a citizen of Australia

Name:

Title: PROCTOR

3 MAY 2006

Date